

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

IN RE:

)
) **MDL NO. 2753**
)

**ATRIUM MEDICAL CORP. C-QUR MESH
PRODUCTS LIABILITY LITIGATION**

) **MDL Docket No.**
) **1:16-md-02753-LM**
)

) **ALL CASES**
)

**STIPULATION AND [PROPOSED] ORDER REGARDING TWO DEPOSITIONS AND
THE EXTENSION OF CERTAIN MULTI-DISTRICT LITIGATION DEADLINES**

Counsel representing plaintiffs in the above-captioned multi-district litigation (collectively, “Plaintiffs”) and defendants, Atrium Medical Corporation and Maquet Cardiovascular USA Sales, LLC (collectively, “Atrium” or “Defendants”) (Plaintiffs and Defendants, collectively, the “Parties”), have conferred and—in the interest of avoiding unnecessary motion practice and promoting the conservation of judicial resources—agreed to the Recitations and Stipulations below:

WHEREAS, on April 30, 2020, the Court issued an Order (Doc. 1203) setting the schedule for the above-captioned multi-district litigation (“MDL”);

WHEREAS, the Order set a First Trial date of September 16, 2020 (*id.* at 4);

WHEREAS, among other deadlines, the Order set a deadline of May 14, 2020 for each side to strike one case from among the trial pool cases by notifying Lead Counsel for the other side (*id.* at 3);

WHEREAS, on May 14, 2020, Plaintiffs struck the case of plaintiff, Amy Vollmar (“Vollmar Case”), from among the trial pool cases;

WHEREAS, on May 14, 2020, Defendants struck the case of plaintiffs, Daniel Hicks & Sandra Hicks (“Hicks Case”), from among the trial pool cases;

WHEREAS, the Order also set a deadline of May 15, 2020 for each side to select one case from among the trial pool cases by notifying Lead Counsel for the other side (*id.* at 4);

WHEREAS, on May 15, 2020, Plaintiffs selected the case of plaintiffs, Carrie Lee Barron and Nicholas Barron (“Barron Case”) from among the trial pool cases;

WHEREAS, on May 15, 2020, Defendants selected the case of plaintiff, Juanita Hickinbottom (“Hickinbottom Case”), from among the trial pool cases;

WHEREAS, the Order further set the following deadlines for trial pool cases: expert discovery completion (June 5, 2020), dispositive or *Daubert* motions (June 12, 2020), responses to dispositive or *Daubert* motions (June 26, 2020), and replies to dispositive or *Daubert* motions (July 3, 2020) (*id.* at 4);

WHEREAS, the Court’s Order specified that the “parties are free to modify the above deadlines by their mutual agreement” (*id.* at 4);

WHEREAS, the current COVID-19 pandemic and other circumstances have resulted in various delays in expert discovery in the MDL;

WHEREAS, after conferring by teleconference and email, the Parties mutually agreed on or around May 18, 2020, to the following deadlines related to the deposition of Plaintiffs’ disclosed MDL regulatory expert, Dr. Peggy Pence: deposition (June 17, 2020), Defendants’ disclosure of responsive regulatory expert (June 24, 2020), and *Daubert* motions related to the Parties’ respective regulatory experts (July 8, 2020¹);

WHEREAS, the Parties also mutually agreed to extend the deadline for filing supplemental or amended dispositive motions related to the regulatory experts in the two selected trial pool cases—the Barron and Hickinbottom Cases, to July 1, 2020;

¹ In accordance with the timing in the Court’s original Order, responses to those *Daubert* motions would be due two weeks later on July 22, 2020, and replies due one week after responses on July 29, 2020. *See id.* at 4.

WHEREAS, after conferring by teleconference and email, the Parties have mutually agreed to the following deadlines related to the Hicks case: deposition of Plaintiffs' disclosed expert, Dr. Christine Knabe (by July 30, 2020), disclosure of Defendants' experts in rebuttal to Dr. Knabe (within one week following the completion of Dr. Knabe's deposition), and deposition of Defendants' rebuttal experts (within 30 calendar days following their disclosure)²;

WHEREAS, the Parties do not anticipate that these new proposed deadlines will change or impact the First Trial date of September 16, 2020;

WHEREAS, the Parties have further agreed that they will not use the proposed extension of existing deadlines as reason to seek a delay of the First Trial date of September 16, 2020;

THEREFORE, the Parties respectfully ask the Court to enter the attached [Proposed] Order.

Dated: June 12, 2020

Respectfully submitted,

/s/ Paul LaFata

Mark S. Cheffo

Katherine Armstrong

Paul LaFata

Dechert LLP

Three Bryant Park

1095 Avenue of the Americas

New York, NY 10036

Telephone: (215) 208-3091

Facsimile: (212) 994-2222

mark.cheffo@dechert.com

katherine.armstrong@dechert.com

paul.lafata@dechert.com

/s/ Pierre A. Chabot

Pierre A. Chabot – NHBA # 17606

Wadleigh, Starr & Peters, PLLC

95 Market Street

Manchester, NH 03101

Telephone: (603) 669-4140

² Since the Hicks Case is not one of the two selected trial pool cases, *Daubert* and dispositive motion deadlines will be deferred until the Court sets a date for trial of the Hicks Case.

Facsimile : (603) 669-6018
pchabot@wadleighlaw.com

Attorneys for Defendants

/s/ Luke R. Hertenstein

Luke R. Hertenstein, Esq.

HOLLIS LAW FIRM PA

8101 College Blvd., Ste 260

Overland Park, KS 66210

Telephone: (913) 385-5400

luke@hollislawfirm.com

/s/ Adam M. Evans

Adam M. Evans, Esq.

BRENES LAW GROUP, P.C.

800 E. 101st Street, Suite 350

Kansas City, MO 64131

Telephone: (949) 397-9360

aevans@breneslawgroup.com

/s/ D. Todd Mathews

D. Todd Mathews, Esq.

GORI, JULIAN & ASSOC. P.C.

159 N. Main St.

Edwardsville, IL 62025

Telephone: (618) 659-9833

Todd@gorijulianlaw.com

/s/ Anne Schiavone

Anne Schiavone, Esq.

HOLMAN SCHIAVONE, LLC

4600 Madison Avenue, Suite 810

Kansas City, Missouri 64112

Telephone: (816) 283-8738

aschiavone@hslawllc.com

/s/ Jonathan D. Orent

Jonathan D. Orent, Esq.

MOTLEY RICE, LLC

55 Cedar Street, Suite 100

Providence, RI 02903

Telephone: (401) 457-7700

jorent@motleyrice.com

dcostigan@motleyrice.com

Lead Counsel for Plaintiffs

/s/ Russell F. Hilliard

Russell F. Hilliard, Esq.

UPTON & HATFIELD LLP

159 Middle St

Portsmouth, NH 03801

Telephone: (603) 436-7046

rhilliard@uptonhatfield.com

Plaintiffs' Liaison Counsel

/s/ David L. Selby

David L. Selby, Esq.

BAILEY & GLASSER, LLC

3000 Riverchase Galleria, Suite 905

Birmingham, AL 35244

Telephone: (205) 988-9253

dselby@baileyglasser.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2020, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of Notice of Electronic Filing to all counsel of record. A courtesy copy was emailed to Plaintiffs' Liaison Counsel, Russell F. Hilliard, Esq., Upton & Hatfield LLP, 159 Middle Street, Portsmouth, NH 03801, rhilliard@uptonhatfield.com.

/s/ Paul LaFata
Paul LaFata

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[PROPOSED] ORDER

Having reviewed the Parties' Recitations and Stipulations concerning their mutual agreement regarding two depositions and the extension of certain multi-district litigation ("MDL") deadlines, and good cause appearing to support the Parties' mutual agreement, it is ORDERED that the changes in the MDL schedule outlined in the Parties' Recitations and Stipulations be entered and implemented.

IT IS SO ORDERED.

Dated: June ____, 2020

Hon. Landya McCafferty
United States District Court Judge